HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

COMPLAINT NO. 2177 OF 2022

Sunita Devi .....COMPLAINANT

Versus

INR Constructions ...RESPONDENT No 1

Alpha Corp Development Pvt. Ltd. ....RESPONDENT No 2

Date of Hearing: 03.11.2026

Hearing: 18th

Present: Adv. Vivek Aggarwal, Ld. Counsel for Complainant through VC.

Adv. Sharad Gautam, Ld. Counsel for Respondent No.1 through VC.

None for the Respondent No.2.

ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Today, case is fixed for the arguments.
2. Arguments heard.
3. Case **Disposed of**. Detailed order shall follow.

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DR. GEETA RATHEE SINGH

[MEMBER]

HARYANA REAL ESTATE REGULATORY AUTHORITY PANCHKULA

Website: www.haryanarera.gov.in

Complaint No.:	**2177 of 2022**
Date of Filing:	**25.08.2022**
First Date of Hearing:	**19.10.2022**
Date of Decision:	**03.11.2026**

Sunita Devi
H. No. 645, Sector-29,
Alpha City, Karnal

.....COMPLAINANT

Versus

INR Constructions
H. No. 17, Sector-28,
Alpha International City, Karnal

...RESPONDENT No 1

Alpha Corp Development Pvt. Ltd.
Upper Basement, Alpha Mall, MBM Farm,
GT Road, Sultan Wind Sub Urban,
Amritsar, Punjab, 143001

....RESPONDENT No 2

Present: Adv. Vivek Aggarwal, Ld. Counsel for the Complainant through VC.

Adv. Sharad Gautam, Ld. Counsel the Respondent No.1 through VC.

None for Respondent No. 2.

ORDER : DR. GEETA RATHEE SINGH -(MEMBER)

1. Present complaint has been filed by the complainant under Section 31 of The Real Estate (Regulation & Development) Act, 2016 (for short Act of 2016) read with Rule 28 of The Haryana Real Estate (Regulation & Development) Rules, 2017 for violation or contravention of the provisions of the Act of 2016 or the Rules and Regulations made thereunder, wherein it is inter-alia prescribed that the promoter shall be responsible to fulfil all the obligations, responsibilities and functions towards the allottee as per the terms agreed between them.

A. UNIT AND PROJECT RELATED DETAILS

2. The particulars of the project, details of sale consideration, amount paid by the complainants, date of proposed handing over the possession, delay period, if any, have been detailed in the following table:

S.No.	Particulars	Details
1.	Name of the project	"INR Royal Floor", Village Badli, Sector-29, Karnal, Haryana.
2.	Nature of the project.	Residential
3.	RERA Registered/Not Registered	Not Registered
4.	Details of the unit	A1/21, FF (149.94 sq. mtrs)
5.	License Number	8 of 2018
6.	Date of Floor Buyer Agreement	03.10.2020
7.	Possession clause 18(a) as per	The Promoter shall hand over the

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	FBA dated 03.10.2020	Floor to the Intending Purchaser for his/her occupation and use and subject to the condition that the Intending Purchaser having complied with all the terms and conditions of this Agreement. In the event of his/her failure to take over and /or occupy and use the Floor provisional and/or finally allotted within thirty 30days from the date of intimation in writing by the Promoter, then the same shall lie at his/her risk and cost and the Intending Purchaser shall be liable to pay to the Promoter holding charges @ Rs.5/- (Rupees five only) per sq.ft. Per month for the entire period of such delay. If the Promoter fails to deliver the possession of the said Floor within 18 months from the date of Building Plans approval (plus three months grace period, thereafter), but subject to force majeure, as per clauses no.53 then the Promoter shall pay to the Intending Purchaser compensation @Rs. 5/- (Rupees five only) per sq. ft. per month for the period of such delay. The adjustment of holding charges or compensation shall be done at the time of convincing of the Floor and not earlier. The holding charges shall be a distinct charge in addition to maintenance charges, and not related to any other charges as provided in this Agreement.
8.	Date of approval of building plan	14.01.2020
9.	Due Date of Possession	14.10.2021
10.	Basic Sale Consideration	₹34,00,000/-

11.	Amount paid by the complainant	₹20,00,000/-
12.	Offer of Possession	None

B. FACTS OF THE COMPLAINT AS MENTIONED IN THE COMPLAINT

3. That opposite parties launched an affordable residential plotted and independent floor colony under the name and style of "INR Royal City / INR Royal Floors" situated at Village Baldi, Sector 29, Tehsil and District Karnal, within the territorial jurisdiction of this Hon'ble Regulatory Authority, under the Deen Dayal Jan Avas Yojna (DDJAY-2016) Affordable Housing Policy of the Haryana Government. The Town & Country Planning Department (DTCP), Haryana, Chandigarh, had granted License No. 08 of 2018 dated 29.01.2018, bearing Endorsement No. LC-3237-PA(SS)-2018/3944-57, over land measuring 74 Kanal 03 Marla for the construction and development of residential units, and the said composite project was formally registered with this Authority vide Registration No. PKL-KNL-33-2018 dated 07.08.2018. The Opposite Parties, through wide advertisements, brochures, and personal representations, marketed low-rise independent floors comprising ground plus two floors (G+2) and induced prospective buyers with representations of timely execution and quality amenities.

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4. The complainant has further submitted that in terms of Clause 18(a) of the Floor Buyer's Agreement read with page 2 thereof, the respondents were contractually bound to hand over possession of the unit within 18 months plus a 3-month grace period from the date of approval of the building plans, i.e., 29.01.2018, whereby the stipulated period of 21 months expired in October 2019 itself, whereas at the time of execution of the agreement, the respondents had separately extended a verbal assurance to hand over possession by April 2021. Despite the expiry of both the contractual timeline and the extended oral assurances, the respondents failed to deliver possession. When the complainant along with her husband visited the site office and submitted a written joint representation on 06.09.2021 to the Manager/Incharge, Mr. Rohit Dhaia, Director of the respondent company, assured prompt redressal and delivery of possession; however, neither any formal response was tendered nor was any construction work expedited. Similar representations were made in November 2021, wherein the respondents conceded to facing acute financial crises and assured possession by January 2022, which was subsequently deferred to February 2022, and upon a further personal meeting on 26.03.2022 with Director Rohit Dhaia, fresh demands for money were raised without offering possession.

5. That against the total agreed consideration of ₹34,00,000/-, she has disbursed a total sum of ₹26,49,010/- through distinct installments and authorized out-of-

pocket project expenditures. Specifically, the complainant paid ₹5,00,000/- vide Cheque No. 874302 on 12.02.2020 (receipt issued on 15.03.2020), ₹10,00,000/- vide Cheque No. 151909 on 03.01.2021 (receipt issued on 03.01.2021), and ₹5,00,000/- vide Cheque No. 049846 on 10.06.2021 (receipt issued on 19.06.2021), totaling ₹20,00,000/- against which formal receipts were issued. In addition, in the first week of July 2021, when the complainant visited the registered office at Sector 28, Karnal, Director Rohit Dhaia pleaded a severe liquidity crunch and offered that if the complainant was in a hurry to take possession, she could directly purchase floor tiles and carry out false ceiling/POP works, assuring that all such expenses would be credited against the flat's cost. Acting on this representation, the complainant paid ₹69,010/- in cash to M/s Aggarwal Bath Gallery Pvt. Ltd., Kunjpura Road, Karnal, vide Invoice No. 001252 dated 08.07.2021 for the purchase of floor tiles, and further incurred ₹80,000/- on raw materials (plaster of paris, iron bars) and labour charges for completing the POP false ceiling work, for which the respondents failed to issue receipts or adjust the amounts despite having received the benefit. Furthermore, upon a demand raised by the respondents in May 2022, the complainant handed over Cheque No. 402741 dated 30.05.2022 for ₹5,00,000/-; however, the respondents intentionally and deliberately withheld this cheque and never presented it for encashment, despite sufficient credit balance being continuously maintained in the complainant's bank account, solely to manufacture a false pretext of financial default.

6. That despite having collected over ₹26.49 Lakhs out of ₹34 Lakhs, the respondents, instead of handing over possession, unilaterally and unlawfully issued a letter dated 08.07.2022 terminating the allotment and the agreement, wherein they arbitrarily forfeited an amount of ₹6,80,000/- while acknowledging receipt of only ₹20,00,000/-. It has been submitted that as per Schedule 'C' (Payment Schedule) at page 23 of the Buyer's Agreement, the sale consideration was spread over eight construction-linked installments, with the final installment falling due only upon offer of possession. The respondents had not even completed Stage 7 of the work (completion of internal plaster), as evidenced by site photographs clicked by the complainant on 30.07.2022, rendering the demand for further payments and the consequent termination legally void, malafide, and an attempt at unjust enrichment to unlawfully resell the property at escalated rates. The complainant has further asserted that upon an on-site physical measurement carried out by her husband, who serves as a Junior Engineer in the Electricity Department, it was revealed that the respondents unilaterally reduced the area of the unit from the contractually agreed 179.33 sq. yards (149.94 sq. meters) to 165 sq. yards, resulting in a substantial reduction of 14.33 sq. yards without obtaining her prior written consent or any revised sanction from the competent authority. It is contended that this unauthorized structural alteration and shrinkage of habitable area directly violates Section 14(1) and Section 14(2)(i) of the Real Estate (Regulation and Development) Act, 2016, which strictly prohibits additions,

alterations, or reductions in area under the garb of minor changes without the express consent of the allottee. Additionally, the respondents failed to provide the specifications guaranteed in Annexure-II of the agreement, omitting the promised modular kitchen and decorative bedroom false ceilings and employing sub-standard, inferior construction materials, thereby committing unfair trade practices and severe deficiencies in service causing an estimated loss of ₹10,00,000/- in addition to persistent mental agony, financial distress, and harassment.

C. RELIEF SOUGHT

7. In view of the facts mentioned above, the complainant has prayed for the following relief(s):-

   i. To direct the respondents to withdraw / cancel the termination letter dated 08.07.2022 (Annexure C-7) as complainant had already made the payment of Rs.25,69,010/- + Rs.80,000/- on account of POP work in the flat and labour thereon, out of total sale price of flat i.e. Rs.34,00,000/-.

   ii. To direct the respondents to deliver the possession of the said flat immediately to the complainant along with area i.e. 179.33 sq. Yards instead of reduced area i.e. 165 sq. Yards, in view of Allotment Letter (Annexure C-2) and Agreement (Annexure C-3).

iii. To accept the present complaint and to issue direction to respondents – OPS to withdraw the termination letter (Annexure C-7) and to deliver the possession of the said flat immediately to the complainant as per Allotment Letter (Annexure C-2) and Agreement (Annexure C-3) and criminal proceedings against the Opposite Parties may kindly be launched and appropriate action may kindly be taken against Opposite Parties and respondents be directed to provide the area of the flat as per Annexure C-2, and Annexure C – 3, and also to pay the compensation of Rs.10,00,000/- for mental harassment and agony etc., and also direct the OPs to pay the litigation expenses i.e. 33,000/-, in the interest of justice.

iv. That the registration of the respondent / promoter and others under the Real Estate (Regulation and Development) Act 2016, may kindly be ordered to be revoked as the violation is serious one and against the sanction granted by the competent authority as well as the Policy of the Government launched by Hon'ble Prime Minister of India to provide houses.

v. To issue any other relief or direction as this Hon'ble Authority may deem fit in view of facts and circumstances of present case.

D. REPLY ON BEHALF OF RESPONDENT NO. 1

8. Respondent filed reply and stated that the complaint primarily on grounds of lack of subject-matter jurisdiction, statutory exemption, arbitration and territorial bars, gross payment default by the allottee, and lawful termination of the contract with contractual forfeiture. At the threshold, respondent no. 1 has submitted that the complainant has approached this Authority with unclean hands, having suppressed material facts, painted a concocted picture, and deliberately mischaracterized the true identity of the subject development to raise frivolous claims. Challenging the maintainability of the complaint under the Real Estate (Regulation and Development) Act, 2016, respondent No. 1 has asserted that it is a small-scale builder that has undertaken an independent, standalone residential project under the name and style of "INR Royal Floors". It is submitted that this independent project consists of only one single unit comprising three independent floors, namely Ground, First, and Second floors (G+2), constructed upon an individual residential plot admeasuring 149.94 sq. meters (Plot No. A1/21, Sector 29, Karnal). The said unit was planned, developed, and erected separately with its own distinct building map and layout under the self-certification provisions of the Haryana Building Code, 2017, and received formal sanction and approval from the competent authorities, namely the Director, Town and Country Planning (DTCP) and the District Town Planner (DTP), Karnal, vide approval letter dated 14.01.2020 (annexed as Annexure R-1). Respondent No. 1 has emphatically contended that because the entire construction is situated on a single plot measuring merely 149.94 sq.

meters which is well below the statutory threshold of 500 sq. meters and encompasses only three floors (far below the limit of eight apartments), the project is strictly outside the mandatory registration purview and is entirely exempt from registration under Section 3(2)(a) of the Real Estate (Regulation and Development) Act, 2016.

9. That the underlying status of the land and refuting the averments made in the complaint, respondent no. 1 has submitted that the complainant has fundamentally misled this Authority by alleging that she booked a flat in the broader plotted project titled "INR Royal City". It is explained that the master plotted colony, "INR Royal City", spread across 74 Kanal 03 Marla in Sector 29, Karnal, was an affordable residential plotted development launched under the Deen Dayal Jan Avas Yojna (DDJAY) – 2016 Policy by the land-owning company, M/s Alpha Corp Development Private Limited, in whose favour the Town and Country Planning Department, Haryana, had granted License No. 08 of 2018 dated 29.01.2018. The layout plan for that plotted colony was sanctioned by DTCP on 06.03.2018, and the master project was registered with RERA under Registration No. PKL-KNL-33-2018 dated 07.08.2018. Thereafter, M/s INR Constructions was merely granted in-principle approval by DTCP for change in beneficiary interest qua the transfer of development and marketing rights over the land. Crucially, DTCP and DTP Karnal, after conducting due inspection and physical verification, had already granted a formal Completion Certificate dated 05.08.2019 in respect of the entire "INR

Royal City" plotted colony (annexed as Annexure R-3). It was only subsequent thereto that M/s INR Constructions launched "INR Royal Floors" as a separate, distinct floor-construction project on individual plots. The complainant specifically purchased an independent first floor (Unit No. A1/21 FF) in "INR Royal Floors" pursuant to the Floor Buyer's Agreement executed on 03.10.2020, and not an apartment in the already completed plotted colony.

10. That in addition to the statutory exemption under Section 3(2)(a), respondent No. 1 has raised specific legal objections regarding forum competence and dispute resolution mechanism based on the executed agreement. Relying upon Clause 55 of the Floor Buyer's Agreement dated 03.10.2020, respondent no. 1 has pleaded that the parties explicitly covenanted that all disputes arising out of or in connection with the allotment ought to be mandatorily referred to arbitration under Section 8 of the Arbitration and Conciliation Act, 1996 (as amended by the Amendment Act of 2015). It is submitted that the filing of the written reply is strictly without prejudice to its right to seek reference to arbitration, which is mandatory under the amended statutory framework, particularly given that the present dispute involves disputed accounts, construction milestones, and complex questions of fact that necessitate comprehensive oral and documentary evidence. Furthermore, respondent No. 1 has invoked Clause 56 of the agreement, which confers exclusive territorial jurisdiction upon the civil courts at Karnal for all matters connected with the

allotment, thereby precluding the complainant from maintaining the instant proceedings before this Authority.

11. That on the factual matrix, contractual milestones, and timeline of possession, respondent No. 1 has confirmed that the complainant booked First Floor Unit No. A1/21 FF (admeasuring 149.94 sq. meters) in the year 2020 for an agreed total basic sale consideration of ₹34,00,000/- (excluding statutory taxes and other applicable levies) under a Construction-Linked Payment Plan, which culminated in the execution of the Floor Buyer's Agreement dated 03.10.2020. In terms of Clause 18(a) of the said agreement, the due date for handing over possession was agreed to be November 2021 (specifically computed as 14.11.2021). However, the physical execution and progress of the work were severely crippled by genuine force majeure conditions and supervening statutory impediments. The entire real estate sector suffered catastrophic setbacks on account of the outbreak of the COVID-19 pandemic, during which governmental authorities formally declared a condition of force majeure and granted a blanket relaxation/extension of six months to developers. Furthermore, the construction operations were repeatedly brought to a complete halt by strict environmental bans imposed on all construction activities across the National Capital Region (NCR), which statutorily covers District Karnal, pursuant to directions issued by the National Green Tribunal (NGT) and executive guidelines.

12. Respondent No. 1 has vehemently asserted that under the agreed contractual framework, the obligation to hand over possession was reciprocal and inextricably contingent upon the allottee remitting timely installments according to the construction-linked schedule. While the complainant paid a total sum of ₹20,00,000/- across various installments up to June 2021, she thereafter abruptly, unilaterally, and willfully stopped making any further payments towards the outstanding balance. This unnotified stoppage of funds inflicted severe financial strain on the project and caused acute operational hindrance to site works, compelling respondent No. 1 to mobilize its own private resources to keep the construction moving. It is submitted that the respondent repeatedly called upon the complainant to fulfill her payment obligations by issuing regular demand and reminder letters, specifically dispatching notices dated 24.11.2020, 12.12.2020, 11.06.2021, 20.07.2021, 29.11.2021, and a final demand notice dated 12.02.2022 along with postal dispatch proofs (annexed collectively as Annexure R-4 colly). Under the final demand notice dated 12.02.2022, an overdue sum of ₹13,89,861/- was demanded against the verified construction milestone of "completion of internal and external plaster and flooring", which was payable on or before 22.02.2022. Despite receipt of these repeated communications, the complainant neither tendered the outstanding payment nor approached the respondent's office, completely abandoning her contractual obligations.

13. Respondent No. 1 has further contended that the complainant was never a genuine residential end-user desiring personal habitation, but was a speculative investor who had booked the unit solely for commercial appreciation and profit-booking. Having witnessed broader market corrections, she lost interest, never visited the site or corporate office to ascertain construction progress, and deliberately engineered excuses regarding the unit size as an afterthought to escape her financial commitments. Having committed persistent and incurable defaults extending far beyond the statutory and contractual grace period of a fortnight, respondent No. 1 was constrained to invoke Clause 6 of the Floor Buyer's Agreement. Consequently, vide formal cancellation letter dated 08.07.2022 (annexed as Annexure R-5), the allotment as well as the agreement stood cancelled and terminated. In strict conformity with the terms of the agreement, respondent No. 1 forfeited an amount of ₹8,77,766/- (comprising 20% of the basic sale price as earnest money plus accrued interest on delayed payments) from the deposited sum of ₹20,00,000/-, and specifically called upon the complainant to visit the office and receive the net remaining balance of the refund. It is submitted that instead of collecting the refund amount, the complainant initiated the present false and frivolous litigation to unlawfully exert pressure and arm-twist the respondent. Respondent No. 1 has concluded that following the valid, binding termination effected on 08.07.2022, the contract ceased to exist, no claim for possession can legally survive or be

granted under any circumstance, and the complaint is devoid of merit and liable to be dismissed with exemplary costs.

REPLY ON BEHALF OF RESPONDENT NO. 2

14. Present reply is filed on behalf of Respondent No. 2, M/s Alpha Corp Development Limited (formerly M/s Alpha Corp Development Private Limited), through its Authorized Representative, raising a preliminary objection that the complaint is wholly misconceived, legally untenable, and liable to be dismissed in limine for misjoinder of parties, as no privity of contract, statutory cause of action, or legal liability exists against the answering respondent. Answering Respondent No. 2 was the absolute owner in possession of land admeasuring approximately 9.26875 acres in Village Baldi, Sector 29, Karnal, for which the Directorate of Town and Country Planning (DTCP), Haryana, granted License No. 08 of 2018 dated 29.01.2018 (Endst. No. LC-3237-PA(SS)-2018/3944-57) under the Deen Dayal Jan Avas Yojna (DDJAY-2016) Affordable Housing Policy, placed on record as Annexure A-1.

15. Subsequently, a registered Joint Development Agreement (JDA) dated 18.05.2018 was executed between Respondent No. 2 as landowner and M/s INR Constructions (Respondent No. 1) as developer, annexed as Annexure A-2, whereby Respondent No. 1 was appointed as the sole and exclusive developer of the project. On 02.04.2018, an application was submitted to DTCP seeking permission for change in beneficial interest and transfer of development and

marketing rights in favour of Respondent No. 1, which was duly granted by DTCP on 24.07.2018. Thereafter, DTCP conducted site verification and issued a formal Completion Certificate for the base plotted colony on 05.08.2019, annexed as Annexure A-3.

16. That under the express contractual framework of the JDA—specifically Clauses C(ii), 4.2, 7.7, 8.4, 9.2, and 12.2.1—the entire responsibility for conceiving, naming, branding, marketing, constructing, and delivering the project ("INR Royal City / INR Royal Floors") at its own cost and expense was exclusively assumed by Respondent No. 1. Clause 8.4 casts the sole obligation on Respondent No. 1 to ensure full compliance with license terms, bilateral agreements, DTCP guidelines, and all duties owed to allottees under the Real Estate (Regulation and Development) Act, 2016, both before and after issuance of the completion certificate. Clause 9.2 vested the developer with the exclusive right to brand the project and register it with HRERA (Registration No. HRERA-PKL-KNL-33-2018 dated 07.08.2018, Annexure A-5). Clause 7.7 mandated the developer to specifically inform every intending purchaser that the landowner shall bear no development-related liabilities. Furthermore, under Clause 12.2.1, Respondent No. 1 executed an absolute indemnity covenant undertaking to defend, indemnify, and hold harmless Respondent No. 2, its directors, and officers against all claims, defaults, statutory non-compliances, or financial damages arising out of the project.

17. That the complainant consciously subscribed to this allocation of rights and liabilities by executing the Floor Buyer's Agreement dated 03.10.2020 (Annexure A-4) with Respondent No. 1. Clause 18(c) of the agreement contains an explicit negative covenant and ring-fencing stipulation whereby the complainant acknowledged that Respondent No. 2 is merely the owner of the land, that remedies shall lie solely against the developer/promoter (Respondent No. 1), and undertook neither to hold Respondent No. 2 liable for construction, delivery, compensation, or statutory compliances nor to implead Respondent No. 2 as a party in any legal proceedings. Clause 24 of the agreement further confirms that the complainant inspected all title deeds, licenses, and statutory permissions, verified the distinct roles of the parties, and executed the agreement with full knowledge.

18. That the complainant, having derived contractual rights under the agreement, is estopped under law from acting contrary to its express terms. Having consciously waived and abandoned any right to initiate recourse against respondent no. 2 in terms of Section 63 of the Indian Contract Act, 1872, the complainant cannot approbate and reprobate by seeking to fasten joint liability on the landowner. It is settled law, as laid down by the Hon'ble Supreme Court in *Bharti Knitting Co. v. DHL World-wide Courier* [(1996) 4 SCC 704] and *Shree Ambica Medical Stores v. Surat People's Co-operative Bank Ltd.* [(2020) 13 SCC 564], that courts cannot rewrite clear, unambiguous commercial terms

or relieve a party from its voluntary bargain. In *DLF Universal Ltd. v. Director, Town and Country Planning, Haryana* (Civil Appeal No. 4913 of 2003), the Hon'ble Apex Court affirmed that a contract must be interpreted according to its purpose and the joint intent of the parties.

19. That the issue of landowner liability under joint development agreements stands authoritatively settled by the Hon'ble Supreme Court in *Sriganesh Chandrasekaran & Ors. v. M/s Unishire Homes LLP & Ors.* (Civil Appeal Nos. 10527–10528 of 2024), wherein it was held that where a JDA and Power of Attorney exclusively vest construction, marketing, and delivery obligations in the developer alongside an indemnity clause protecting the landowner, the landowner cannot be held jointly and severally liable for construction delays or service deficiencies. In the total absence of any independent act, omission, or privity attributable to Respondent No. 2, no liability can be fastened upon it.

20. That on the factual merits, respondent no. 2 never marketed, sold, or allotted the subject unit, nor did it receive any sale consideration, advance booking amounts, or milestone payments from the complainant. All monetary transactions including the Rs. 20,00,000/- admitted receipts, the disputed cheque of Rs. 5,00,000/-, and any expenses allegedly incurred on tiles (Rs. 69,010/-) or POP works (Rs. 80,000/-) were handled exclusively between the complainant and respondent no. 1 without the knowledge, privity, or participation of respondent no. 2. The complainant never visited the offices of

respondent no. 2, and Mr. Rohit Dahiya was neither an employee, director, nor authorized agent of respondent no. 2; any representations or assurances made by him are strictly personal to respondent no. 1 and do not bind the landowner.

21. That the decisions regarding construction scheduling, progress of work, on-site measurements, alleged reduction of unit area from 179.33 sq. yards to 165 sq. yards, issuance of milestone demands, and the eventual cancellation of allotment vide letter dated 08.07.2022 along with earnest money forfeiture fell exclusively within the domain of respondent no. 1. The complainant has failed to establish any statutory infraction, unfair trade practice, or deficiency of service on the part of respondent no. 2.

E. REJOINDER FILED BY THE COMPLAINANT DATED 28.03.2023

22. That the reply filed on behalf of respondent no. 1 is wholly incompetent, inadmissible, and non-est in the eyes of law as it has been signed by one Mr. Naveen Gupta without any accompanying resolution, power of attorney, or letter of authority authorizing him to depose or plead on behalf of the respondent entities. Furthermore, the written statement lacks statutory verification and is unsupported by an affidavit, rendering the entire pleading legally invalid and liable to be disregarded in view of the settled law laid down in Subedar Major v. Army Welfare Housing Organisation [2004 (2) C.P.C. 412].

23. On the factual controversy regarding project identity and possession timelines, the respondent's plea that the building plan was approved on 14.01.2020 is belied by the record. Under Clause 18(a) of the Floor Buyer's Agreement (Annexure C-4), possession was to be delivered within 18 months plus a 3-month grace period from the date of approval. As admitted by the respondents at page 53 of the complaint and affirmed in Memo No. LC-3237-JE(RK)-2019/18528, the competent authority had already inspected the project and granted the Completion Certificate for the plotted colony on 05.08.2019, an approval timeline corroborated by this Authority's earlier order dated 11.11.2020 in HRERA v. INR Constructions (Complaint No. 1071 of 2020, Annexure C-8). Reckoning from August 2019, the contractual handover period matured in May 2021. While the respondents claimed the benefit of a six-month COVID-19 extension to condone their own operational delay, they unlawfully denied parity to the allottee and instead issued a premature termination notice on 08.07.2022. In an identical dispute concerning the very same project and respondent, the Hon'ble Haryana Real Estate Appellate Tribunal at Chandigarh vide interim order dated 20.03.2023 in Appeal No. 704 of 2022 (Kamlesh Rani v. M/s INR Constructions & Anr., Annexure C-9) recorded that upon the allottee paying the balance consideration, possession complete in all respects must be delivered within 10 days; the complainant is entitled to identical directions.

24. The respondent's attempt to artificially bifurcate "INR Royal Floors" from "INR Royal City" to evade RERA liability is legally untenable. Recitals at page 52 of the Buyer's Agreement explicitly tie the development to DTCP License No. 08 of 2018 dated 29.01.2018 granted for INR Royal City (Endst. No. LC-3237-PA(SS)-2018/3944-57). The mere fact that the underlying license was originally issued in favor of landowner Alpha Corp Development Pvt. Ltd. (Respondent No. 2) does not assist Respondent No. 1, particularly when Respondent No. 2 is already impleaded, the transfer of development rights was sanctioned thereunder, and Clause 4 of License Annexure R-2 expired on 28.01.2023 without any proof of renewal placed on record.

25. The complainant categorically denies being an investor or a defaulting purchaser. Against the basic flat consideration, the complainant has paid Rs. 26,49,010/-, comprising Rs. 20,00,000/- acknowledged under receipts, Rs. 69,010/- paid on 08.07.2021 for floor tiles per invoice (Annexure C-2), and Rs. 5,00,000/- tendered through Cheque No. 402741 dated 30.05.2022. The respondents intentionally concealed this May 2022 payment and kept the cheque uncashed solely to engineer a simulated ground of default. The alleged payment reminder notices were never within the knowledge of the complainant and are put to strict proof. Crucially, the respondents issued the cancellation notice dated 08.07.2022 without a show cause notice, even while the physical unit area on the spot measures only 165 sq. yards against the agreed 179.33 sq.

yards (149.94 sq. meters) stipulated at internal page 5 of the agreement. The complainant remains ready and willing to deposit any legitimate outstanding balance, subject to proportionate adjustment for the reduced area. The undated photographs annexed as Annexure R-6 do not depict the complainant's specific unit and fail to prove completion of construction. Preliminary objections regarding arbitration (Clause 55) and territorial jurisdiction (Clause 56) are settled legal questions that cannot oust the statutory jurisdiction of this Authority to grant possession and quash the unlawful termination.

F. APPLICATION FILED BY THE RESPONDENT NO. 1 DATED 28.08.2023

26. That the complainant was allotted an independent residential floor bearing No. 21, First Floor (FF), Block A1, having an approximate carpet area of 78 sq. mtrs. (841 sq. ft.) on a plot admeasuring 179.33 sq. yards in the project "INR Royal Floors," and subsequently executed a Floor Buyer's Agreement dated 03.10.2020 with Respondent No. 1 against a basic sale price of Rs. 34,00,000/- (excluding other charges and taxes). The complainant has been a habitual defaulter from the inception of the contract, failing to adhere to the agreed payment schedule and remitting only Rs. 20,00,000/- till date despite repeated demand and reminder notices. To evade remitting his outstanding installment dues, the complainant has raised fabricated and afterthought contentions alleging an unauthorized reduction in the plot and floor area.

27. That the subject unit has been constructed in strict conformity with the building plan sanctioned by the Directorate of Town and Country Planning (DTCP) through DTP Karnal vide approval letter dated 14.01.2020 (Annexure R-1), which plan was duly verified, acknowledged, and signed by the complainant at the time of executing the agreement. The issuance of the formal Occupation Certificate by the DTCP, annexed herewith as Annexure A-1, is self-evident proof of full statutory compliance and authenticates that the physical construction adheres strictly to the sanctioned architectural layout.

28. That the site photographs demonstrating the completion of the structure were placed on record with the written reply, the complainant in his replication raised a frivolous objection regarding the absence of time and date stamps. To demonstrate bona fides, place the true factual position beyond controversy, and establish that the unit stands fully completed in accordance with the sanctioned parameters, the applicant/Respondent No. 1 is placing on record fresh date- and time-stamped photographs of the unit as Annexure A-2 along with the Occupation Certificate (Annexure A-1).

G. ARGUMENTS OF LEARNED COUNSEL FOR COMPLAINANT AND RESPONDENTS

29. Ld. Counsel for the complainant and the respondents, both reiterated the same facts as stated in their pleadings.

H. ISSUES FOR ADJUDICATION

30. Whether the cancellation vide letter dated 08.07.2022 is valid or not?

31. Whether the complainant in the above captioned complaint is entitled to delay interest on the amount deposited by them along with interest in terms of Section 18 of RERA Act of 2016?

32. Whether the respondents are liable to be penalized for reducing the area of flat in question from 179.33 square yards to 165 Sq. Yards. Which is against the terms and conditions mentioned in the floor buyer's agreement.

33. Whether the payments incurred by complainant for the purchase of floor tiles and for purchase of raw material of Plaster of Paris, iron bars, etc. and labour thereon for fixing the artificial roofs and POP work for a total amount of ₹80,000/- on asking of respondents are to be adjusted against the total value of said flat?

I. FINDINGS ON THE PRELIMINARY OBJECTIONS RAISED BY THE RESPONDENTS

I.1 Objection with regard to arbitration clause 55 of the agreement.

The Authority has considered the objection that the complaint is not maintainable in view of the Arbitration Clause 55 of the Floor Buyer Agreement. The presence of such a clause does not divest this Authority of the jurisdiction expressly conferred under the Real Estate (Regulation and Development) Act, 2016. The Hon'ble Supreme Court in ***Imperia Structures***

Ltd. vs. Anil Patni (2020) SC 822, held that statutory remedies under special legislations like RERA cannot be ousted by an arbitration clause. Accordingly, the Authority holds that it is competent to hear and decide the present matter and this objection of the respondent is rejected.

I.2 Objection with regard to jurisdiction.

Territorial Jurisdiction- Another objection raised by the respondent no. 1 is that the floor buyer agreement Clause 56 confers exclusive jurisdiction upon courts at Karnal, rendering the present proceedings not maintainable. It is observed that as per notification no. 1/92/2017ITCP dated 14.12.2017 issued by Town and Country Planning Department, the jurisdiction of Real Estate Regulatory Authority, Panchkula shall be entire Haryana except Gurugram District for all purposes. In the present case the project in question is situated within the planning area of Karnal district. Therefore, this Authority has complete territorial jurisdiction to deal with the present complaint.

Subject Matter Jurisdiction- Respondent No. 1 has resisted the maintainability of the complaint on the ground that the project "INR Royal Floors" is a standalone, independent development comprising only three floors (Ground + Two Floors; G+2) constructed on an individual plot admeasuring 149.94 sq. meters (~179.33 sq. yards) under the self-certification provisions of the Haryana Building Code, 2017. On this basis, the respondent contends that since the plot area does not exceed 500 square meters and the number of apartments does not

exceed eight, the project is expressly exempted from registration under Section 3(2)(a) of the Real Estate (Regulation and Development) Act, 2016, thereby divesting this Authority of subject matter jurisdiction.

The Authority has examined the record and finds this contention to be fundamentally fallacious and legally untenable.

A perusal of the statutory framework reveals that the subject independent floor is not an isolated development detached from regulatory oversight. The land beneath the project was originally carved out as part of a larger Affordable Residential Plotted Colony developed under License No. 08 of 2018 dated 29.01.2018 granted by the DTCP, Haryana, under the Deen Dayal Jan Awas Yojna (DDJAY-2016). The parent plotted colony was registered with this Authority vide Registration No. PKL-KNL-33-2018 dated 07.08.2018. The record reflects that after having initially plotted the colony, the respondent promoter, in pursuit of enhanced profit margins, floated a subsequent scheme to construct independent floors on demarcated residential plots of varying sizes ranging from 100 sq. yards to 180 sq. yards within the licensed colony under the banner of "INR Royal Floors".

The respondent cannot be permitted to fragment a composite development into miniature, plot-by-plot parcels solely to evade statutory accountability. Section 3(2)(a) of the Act is an exemption carved out for genuinely small, isolated individual constructions; it is not a loophole designed for promoters to slice a licensed real estate project into sub-500 square meter plots and market multi-

unit floors free from consumer protection safeguards. Allowing such artificial bifurcation would defeat the very legislative intent of the Act.

Furthermore, the independent floor allotted to the complainant derives its existence, civic infrastructure from parent License No. 08 of 2018. Having marketed the floor within the licensed layout and executed a floor buyer's agreement, respondent no. 1 cannot disown the subject matter jurisdiction of this Authority by taking refuge behind Section 3(2)(a). Consequently, the preliminary objection regarding lack of subject matter jurisdiction is rejected.

I.3 Objection of respondent no.1 that complainants is not an "allottee"

The respondent no.1 has contended that the complainants is not a *bona fide* allottee within the meaning of Section 2(d) of the Real Estate (Regulation and Development) Act, 2016 (hereinafter referred to as the "Act"), alleging that the unit was purchased purely for speculative/investment purposes rather than self-consumption.In this regard, this Authority observes that Section 31 of the Act entitles *"any aggrieved person"* to institute a complaint against a promoter for any violation or contravention of the provisions of the Act, Rules, or Regulations framed thereunder. The complainants herein is squarely an "aggrieved person" seeking statutory redressal under Section 31.

Section 2(d) of the Act defines an "allottee" as follows:

> *"allottee", in relation to a real estate project, means the person to whom a plot, apartment or building, as the case may be, has been allotted, sold (whether as freehold or*

leasehold) or otherwise transferred by the promoter, and includes the person who subsequently acquires the said allotment through sale, transfer or otherwise but does not include a person to whom such plot, apartment or building, as the case may be, is given on rent;

A bare perusal of the statutory definition reveals that the Act recognizes only two primary contracting entities in a transaction of this nature—the "promoter" and the "allottee". Unlike certain other statutes, the RERA Act, 2016 does not define, contemplate, or carve out any separate category of an "investor," nor does it draw any distinction between an allottee acquiring a unit for self-use/residential consumption and one acquiring it for financial or investment purposes. Upon a careful perusal of the record, it is undisputed that Unit No. A1/21 FF, measuring 78 Sq. Mtrs.) in the project "INR Royal Floor", Village Badli, Sector-29, Karnal, Haryana was allotted to the complainant vide floor buyer agreement dated 03.10.2020. Once an allotment is established on record, the purchaser indisputably assumes the statutory character of an "allottee" and is entitled to all protections and remedies provided under the Act.This position of law is well-settled. The Hon'ble Maharashtra Real Estate Appellate Tribunal, in its order dated 29.01.2019 passed in Appeal No. 0006000000010557 *(M/s Srushti Sangam Developers Ltd. v. Sarvapriya Leasing (P) Ltd. & Anr.)*, categorically held that the concept of an "investor" is completely alien to the RERA Act, 2016, and a promoter cannot deny statutory benefits to an allottee on the pretext of speculative investment. Furthermore, this Authority has consistently reaffirmed this principle, including in its order dated 13.11.2025

passed in Complaint No. 321 of 2025 (*Harpreet Singh Chona v. Vatika Ltd. & Ors.*).Consequently, the preliminary objection raised by the respondent no.1 that the complainant, being an alleged investor, is excluded from the purview of Section 2(d) of the Act is legally untenable and stands rejected.

I.4 Objection with regard to reply being signed by an unauthorized person (Mr. Naveen Gupta)

The complainant in his replication has raised a preliminary objection regarding the maintainability and legal admissibility of the written reply filed on behalf of respondent no. 1, contending that the same has been signed by one Mr. Naveen Gupta without any accompanying board resolution, letter of authority, or power of attorney on record. Relying on the decision in Subedar Major v. Army Welfare Housing Organisation [2004 (2) C.P.C. 412], the complainant has asserted that a written statement lacking formal verification and authority of the signatory is non-est in the eyes of law and cannot be read in evidence.

The Authority has examined the record. While it is a matter of record that the initial reply filed by respondent no. 1 did not annex the authorization letter, respondent no. 1 subsequently moved a formal application dated 28.08.2023 for placing vital documents on record. Along with the said application, respondent no. 1 duly placed on record the Authority Letter issued in favor of Mr. Naveen Gupta, authorizing him to depose, sign pleadings, and represent Respondent No. 1 before this Authority, alongside the Occupation Certificate.

Procedural law is well-settled to the effect that rules of procedure are handmaidens of justice and cannot be utilized as technical traps to shut out a party's substantive defense. The Hon'ble Supreme Court in **United Bank of India v. Naresh Kumar & Ors. [(1996) 6 SCC 660]** has authoritatively held that a suit or pleading instituted or filed on behalf of a company or commercial entity should not be dismissed on mere procedural irregularities or defects in authorization where the entity has ratified the action or where the authorization is subsequently cured and placed on record. The subsequent filing of the formal Authority Letter dated 28.08.2023 effectively cures the initial procedural lacuna and validates the pleadings signed by Mr. Naveen Gupta on behalf of respondent no. 1. Consequently, the preliminary objection raised by the complainant regarding the competency of the reply is devoid of merits and stands rejected

J. FINDINGS AND OBSERVATIONS OF THE AUTHORITY

34. The Authority has gone through the documents on record and submission made by both parties. In light of the background of the matter, Authority observes that land admeasuring 74 Kanal 03 Marla (approximately 9.26875 acres) situated at Village Baldi, Sector 29, Karnal, was initially owned by respondent no. 2, M/s Alpha Corp Development Pvt. Ltd., in whose favor the Directorate of Town and Country Planning (DTCP), Haryana, granted License No. 08 of 2018 dated 29.01.2018 (bearing Endorsement No. LC-3237-PA(SS)-2018/3944-57) for

setting up an Affordable Residential Plotted Colony under the Deen Dayal Jan Avas Yojna (DDJAY-2016). The overall plotted colony was registered with this Authority vide Registration No. PKL-KNL-33-2018 dated 07.08.2018. Subsequently, vide Joint Development Agreement dated 18.05.2018 and pursuant to permission for change in beneficial interest granted by DTCP on 24.07.2018, development and marketing rights were transferred in favor of respondent no. 1, M/s INR Constructions. The base plotted development was completed, and DTCP granted a Completion Certificate for the colony vide Memo No. LC-3237-JE(RK)-2019/18528 dated 05.08.2019. Thereafter, respondent no. 1 undertook the development of independent low-rise residential floors (Ground + Two Floors; G+2) under the self-certification provisions of the Haryana Building Code, 2017. For the subject plot, Plot No. A1/21 admeasuring 149.94 sq. meters (~179.33 sq. yards), the architectural building plan was formally sanctioned and approved by the DTCP through District Town Planner (DTP), Karnal, vide approval memo dated 14.01.2020 (Annexure R-1). The complainant booked the unit in the year 2020 and was issued an allotment letter on 15.03.2020 for Unit No. A1/21 on the First Floor (FF). Subsequently, a floor buyer's agreement (FBA) was executed between the complainant and respondent no. 1 on 03.10.2020 against a total basic sale consideration of ₹34,00,000/- (excluding statutory taxes and levies). Under Clause 18(a) of the FBA, the promoters undertook to deliver physical possession of the said floor within 18 months from the date of approval of building plans, alongside an

additional 3-month grace period. Possession clause 18(a) of the floor buyer's agreement dated 03.10.2020 is reproduced here for ready reference:

> *"The Promoter shall hand over the Floor to the Intending Purchaser for his/her occupation and use and subject to the condition that the Intending Purchaser having complied with all the terms and conditions of this Agreement. In the event of his/her failure to take over and /or occupy and use the Floor provisional and/or finally allotted within thirty 30days from the date of intimation in writing by the Promoter, then the same shall lie at his/her risk and cost and the Intending Purchaser shall be liable to pay to the Promoter holding charges @ Rs.5/- (Rupees five only)persq.ft. Per month for the entire period of such delay. If the Promoter fails to deliver the possession of the said Floor within 18 months from the date of Building Plans approval (plus three months grace period, thereafter), but subject to force majeure, as per clauses no.53 then the Promoter shall pay to the Intending Purchaser compensation @Rs. 5/- (Rupees five only) per sq. ft. per month for the period of such delay. The adjustment of holding charges or compensation shall be done at the time of convincing of the Floor and not earlier. The holding charges shall be a distinct*

charge in addition to maintenance charges, and not related to any other charges as provided in this Agreement."

The building plan approval for this independent unit was granted on 14.01.2020, whereas the agreement for sale was executed on 03.10.2020. Reckoning the committed timeline of 18 months plus 3 months grace period (totaling 21 months) from the date of building plans approval i.e., approved on 14.01.2020, the due date for handing over possession matured on 14.10.2021. An allottee who has parted with substantial hard-earned money holds a legitimate expectation to receive physical possession within the agreed contractual schedule. Against the agreed consideration, the complainant deposited an aggregate sum of ₹20,00,000/-, duly acknowledged by respondent no. 1 through receipts issued on 12.02.2020, 03.01.2021, and 10.06.2021. Authority observes that period of 21 months is a reasonable time to complete development works in the project and to handover possession to the allottee. However, apparently respondents failed to hand over possession to the complainant within the stipulated time. Consequently, complainant has exercised his right to seek delay interest on account of default on the part of respondent to offer legally valid possession within the time frame as per builder buyer agreement as per Section 18 of RERA Act,2016.

35. The respondent promoter vehemently defy the claim of the complainant by raising a preliminary contention that there was a chronic default on the part of

the allottee in remitting milestone installments under the agreed Construction-Linked Payment Plan. It has been argued that against the total basic sale consideration of ₹34,00,000/-, the complainant deposited an amount of only ₹20,00,000/- up to June 2021 and thereafter abandoned the payment schedule, despite repeated demand notices culminating in the final demand letter dated 12.02.2022 for an overdue balance of ₹13,89,861/-. The respondent further contends that ongoing construction work was severely impeded by Force Majeure conditions arising out of the unprecedented COVID-19 pandemic entitling developers to statutory extensions as well as recurring winter construction bans imposed by the National Green Tribunal (NGT) in the NCR region, which includes Karnal. It is the case of the respondent that such non-payment by the allottee, coupled with these external disruptions, created severe liquidity constraints, leaving the promoter with no alternative but to invoke Clause 6 of the floor buyer's agreement dated 03.10.2020 and issue the cancellation letter dated 08.07.2022, thereby terminating the allotment and forfeiting ₹8,77,766/- (comprising 20% earnest money and delayed interest).

36. Authority is of the view that the time period for handing over the possession to the allottee is committed by the builder as per the possession clause 18(a) of floor buyer's agreement dated 03.10.2020. Perusal of the payment plan at annexure "C-1" of the floor buyer agreement reveals that both the complainant and respondent(s) agreed to construction linked payment plan according to

which payments were to be made at periodic intervals, for ready reference same is reproduced below:

Installment Stage	PLC (%)	IFSD (%)	CAM (%)	Other Charges (%)	B.S.P. Amount (₹)	PLC Amount (₹)	IFSD Amount (₹)	CAM Amount (₹)	Other Charges (₹)	Total Cost (₹)
On Booking	—	0%	0%	0%	5,00,000	—	—	—	—	5,00,000
Within 30 Days	—	0%	0%	0%	1,80,000	—	—	—	—	1,80,000
On Commencement of Construction	—	0%	0%	0%	5,10,000	—	—	—	—	5,10,000
Casting Of Ground Floor	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
Casting Of First Floor	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
On Casting Of Second Floor	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
Completion of internal plaster	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
Completion of external plaster	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
Completion of flooring	—	0%	0%	0%	3,40,000	—	—	—	—	3,40,000
At the time of possession	—	100%	100%	100%	1,70,000	—	26,912	44,573	23,000	2,64,485
Total	—	100%	100%	100%	34,00,000	—	26,912	44,573	23,000	34,94,485

37. The payment plan agreed between the complainant and respondent(s), is a construction linked payment plan and said plan remained unchanged during the covid period also. It is noteworthy to mention that perusal of records reveals that during covid period i.e., 25.03.2020 to 24.09.2020. Furthermore, during the second phase of COVID-19 spanning from 01.04.2021 to 30.06.2021, when the respondent now asserts that all operational activities were completely disrupted and crippled, the record clearly reveals that the respondent had received an

amount of ₹5,00,000/- paid on 11.06.2021 from the complainant. The respondents cannot "blow hot and cold" by simultaneously claiming that the pandemic hindered all operations while actively demanding and accepting construction-linked payments during the COVID period. The demand and receipt of funds on 11.06.2021 serve as a constructive admission that construction activities were ongoing and viable at that time. Had the respondents refrained from soliciting and accepting such payments during the COVID-19 period, the legal landscape regarding their delay might differ, however, having accepted the consideration, they are bound by the reciprocal obligation to deliver. Having failed to extend any reciprocal relief to complainant, the respondents cannot now invoke the "COVID-19 benefit" to absolve themselves of liability. Secondly, covid period was from 25.03.2020 to 24.09.2020, whereas, floor buyer agreement was executed on 03.10.2020. By this date, the global pandemic and the resulting lockdowns (initiated on 25.03.2020) were not "unforeseen" or "unexpected" events. A *Force Majeure* clause typically protects parties from events that could not be anticipated at the time of contract formation. Since the pandemic was a pre-existing condition on 03.10.2020, the respondents entered into the agreement with full prior knowledge of the prevailing disruptions, labor shortages, and supply chain constraints. The respondents, being a professional entity in the real estate sector, is expected to exercise due diligence. By setting a "due date of possession" within the floor buyer agreement during the pandemic, the respondents

voluntarily assumed the risk of any COVID related delays. Failure to adjust the delivery timeline to account for a known pandemic constitutes a "self-induced frustration" of the contract rather than a statutory excuse. Hence, in the above peculiar facts, benefit of covid period could not be granted.

38. In the present case, the record unambiguously establishes that the complainant was contractually and legally entitled to receive physical possession of his allotted floor on 14.10.2021. However, instead of discharging their reciprocal statutory duty to complete construction and deliver the dwelling unit, respondent no. 1 arbitrarily issued a cancellation letter dated 08.07.2022, purporting to terminate the allotment and forfeiting an exorbitant sum of ₹8,77,766/- out of the hard-earned deposits of the consumer. Respondent No. 1 has heavily rested its defence upon this termination, contending that consequent upon such cancellation and forfeiture, the contractual relationship of buyer and builder stood completely extinguished, thereby precluding the complainant from claiming physical possession or delayed possession charges.

39. The Authority finds this contention of respondent no. 1 to be utterly devoid of merit, and legally unsustainable. In a construction-linked payment plan, contractual performance is strictly reciprocal, the promoter's entitlement to demand progressive milestone installments is inextricably tied to actual, verifiable progress achieved on site. An allottee cannot be coerced into continuously pouring their hard-earned life savings into an incomplete structure under the immediate threat of forfeiture when the developer itself is faltering on

delivery commitments. Crucially, the record reveals that the final demand notice issued by respondent no. 1 on 12.02.2022 was for a substantial overdue sum of ₹13,89,861/-, premised upon the purported completion of internal/external plaster and flooring and non-payment of which made the sole foundation for terminating the allotment on 08.07.2022. However, the occupation certificate (OC) for the building was granted by the competent authority only on 25.01.2023. This material fact clinches the issue that the physical and statutory completion of the unit in question was achieved only in the year 2023 well past the committed delivery date of 14.10.2021, nearly a year after raising the demand of ₹13,89,861/-, and approximately six months after issuing the termination letter dated 08.07.2022. A promoter who had not even secured the statutory occupation certificate and was running severely behind its committed possession timeline could not have lawfully manufactured an artificial default to penalize the consumer and forfeit their deposits. It is a well-settled principle of law and equity that a party who is itself in prior and subsisting breach of its reciprocal obligations cannot take advantage of its own default to terminate an agreement and forfeit substantial consumer funds. Consequently, the cancellation letter dated 08.07.2022 is declared arbitrary, and void ab initio, the forfeiture of ₹8,77,766/- is set aside, and the allotment of Unit No. A1/21 (First Floor) stands restored in favor of the complainant in all respects, entitling him to statutory delay possession interest under Section 18(1) of the Act of 2016 from the due date of possession, i.e., 14.10.2021

40. Further, respondent has also taken a plea that due to various order of NGT the project could not be completed on time and therefore such period for which the construction work remained suspended should be treated as force majeure period. In this regard, Authority is of the view that NGT has regularly been passing orders suspending construction activity in the Delhi NCR region every year due to rise in pollution specially in the month of October- November. The promoters who are in the business of real estate development are aware of fact that such orders are passed every year w.r.t Delhi NCR region due to rise in pollution. Therefore, such events should be considered at the time of planning/envisaging the development works. Annual directions by statutory agencies due to human caused reasons cannot be allowed/considered as a force majeure event. Hence, the commitment period of the promoter regarding handing over of possession of the unit is taken accordingly which in the present case is 21 months from the date of approval of building plan. The due date for possession as per the agreement remains unchanged and the promoter is liable for the consequences and obligations under section 18(1) of the Real Estate (Regulation and Development) Act, 2016 arising out of failure in handing over possession by the due date as committed by him in the floor buyer's agreement i.e., 14.10.2021. Therefore, the delay in offering possession is attributable to the respondent.

41. As observed, the delay in offering possession is attributable to the respondents. It is admittedly on record that no valid offer of possession has been issued, after obtaining occupation certificate. Consequently, the complainant is entitled to delay "interest" from 14.10.2021 till the date of valid offer of a valid possession to the complainant after obtaining occupation certificate from the competent Authority is made to the complainant.

42. The term 'interest' is defined under Section 2(za) of the Act which is as under:

> *(za) "interest" means the rates of interest payable by the promoter or the allottee, as the case may be.*
>
> *Explanation.-For the purpose of this clause-*
>
> *(i) the rate of interest chargeable from the allottee by the promoter, in case of default, shall be equal to the rate of interest which the promoter shall be liable to pay the allottee, in case of default;*
>
> *(ii) the interest payable by the promoter to the allottee shall be from the date the promoter received the amount or any part thereof till the date the amount or part thereof and interest thereon is refunded, and the interest payable by the allottee to the promoter shall be from the date the allottee defaults in payment to the promoter till the date it is paid;*

Rule 15 of HRERA Rules, 2017 provides for prescribed rate of interest which is as under:

"Rule 15: *"Rule 15. Prescribed rate of interest- (Proviso to section 12, section 18 and sub-section (4) and subsection (7) of section 19] (1) For the purpose of proviso to section 12; section 18, and sub sections (4) and (7) of section 19, the "interest at the rate prescribed" shall be the State Bank of india highest marginal cost of lending rate +2%:*

Provided that in case the State Bank of India marginal cost of lending rate (NCLR) is not in use, it shall be replaced by such benchmark lending rates which the State Bank of India may fix from time to time for lending to the general public"

43. As per the website of the State Bank of India (https://sbi.co.in), the highest Marginal Cost of Lending Rate (MCLR) as on 03.11.2026 is 8.95%. Accordingly, in terms of HRERA rules, the prescribed rate of interest for the refund shall be MCLR + 2% = 10.95% per annum.

44. The complainant has prayed for interest @24% per annum. However, the RERA Act, 2016, read with Rule 15 of the Haryana Real Estate (Regulation and Development) Rules, 2017, prescribes interest at the rate of SBI MCLR + 2%, which, as on date, works out to be **10.95% per annum**. Accordingly, the interest shall be calculated and awarded at this statutory rate.

45. Authority has got calculated the total amounts along with interest and monthly interest as per detail given in the table below:

Sr. No.	Amount Paid (in ₹)	Due date of Possession or date of payment whichever is later	Interest (in ₹) till 03.11.2026
1.	20,00,000/-	14.10.2021	11,08,200
Total	20,00,000/-		₹11,08,200/-
Monthly Interest			18,000

46. It is observed that the complainant contends that the unit area should be delivered as 179.33 sq. yards, as allegedly stipulated in the allotment letter (Annexure C-1) and the floor buyer's agreement, rather than the reduced area of 165 sq. yards currently offered. However, Authority observes a significant discrepancy between the complainant's assertions and the documented terms of the contract. Both the allotment letter and the floor buyer's agreement, the primary governing documents of this transaction, explicitly define the unit area as 179.33 sq. yards/78 sq. meters. Beyond the written submissions contained within the complaint, the complainant has failed to produce any documentary proof to substantiate the claim that the area has been reduced to 165 sq. yards. Conversely, the occupation certificate issued by the competent authority, which serves as the definitive regulatory record of the completed construction, explicitly specifies the area of the unit in question as 99.052 sq. meters. The Authority finds a fatal discrepancy between the complainant's pleadings and the documents on record. In view of the fact that the actual area as certified by the occupation certificate is 99.052 sq. meters, and given the total absence of documentary proof to support the complainant's specific claims of reduction, the complainant's plea is deemed meritless and unsubstantiated.

47. The complainant has sought a direction against the respondents for the reimbursement/adjustment of expenses amounting to ₹80,000/- incurred for the procurement of floor tiles and the execution of Plastic of Paris (POP) works within the subject unit. The respondent, in their written reply, has categorically denied these averments. The respondent contends that the alleged works were either not executed by the complainant or, alternatively, were not authorized under the terms of the initial agreement, thereby shifting the burden of strict proof onto the complainant. It is observed that claim is not supported by any documentary proof, such as authenticated invoices, payment receipts, labor contracts, or a valuation report from a certified architect/engineer to verify the extent of the work. In the absence of a "Paper Trail," a mere written assertion regarding financial expenditure cannot form the basis for a legal award of recovery. Relief cannot be granted on the grounds of conjectures or surmises. Therefore, relief seeking adjustment of ₹80,000/- is hereby set aside.

48. Complainant is also seeking direction to revoke the registration in relief sought at sr. nos. (iv). However, said relief was never pressed upon by the complainant during hearing. Hence, no observation is made in this regard.

49. The complainant is seeking compensation of ₹10,00,000/- and litigation cost of ₹33,000/-. It is observed that the Hon'ble Supreme Court of India in ***Civil Appeal Nos. 6745-6749 of 2021, M/s Newtech Promoters and Developers Pvt. Ltd. v. State of U.P. & Ors. (supra)***, has held that an allottee is entitled to claim

compensation and litigation charges under Sections 12, 14, 18, and 19 of the RERA Act, 2016. The Court further clarified that such claims are to be adjudicated by the learned Adjudicating Officer under Section 71 of the Act, 2016, and the quantum of compensation and legal expenses is to be determined having due regard to the factors enumerated in Section 72 of the Act, 2016. Accordingly, the Authority observes that the claim for compensation and litigation costs cannot be adjudicated in the present proceedings. The complainants are, therefore, advised to approach the learned Adjudicating Officer for seeking relief in respect of compensation and litigation expenses.

50. As regards the liability of respondent no. 2 (M/s Alpha Corp Development Ltd.), the Authority has carefully examined the registered joint development agreement (JDA) dated 18.05.2018 alongside the floor buyer's agreement dated 03.10.2020. The record reveals that respondent no. 2 was the owner of the project land, whereas the entire development, construction, marketing, sale, and statutory compliance were exclusively entrusted to and assumed by respondent no. 1 (M/s INR Constructions) under clauses C(ii), 4.2, 8.4, and 9.2 of the joint development agreement. Furthermore, Clause 18(c) of the floor buyer's agreement executed by the complainant incorporates an express negative covenant whereby the allottee acknowledged that remedies for non-delivery or construction defects would lie exclusively against the promoter/developer (respondent no. 1), with an explicit undertaking not to implead or seek recourse against the landowner. Under Clause 12.2.1 of the joint development agreement, respondent no. 1 also executed an

absolute indemnity clause holding respondent no. 2 harmless against all development-related defaults and claims.

51. The legal position regarding the liability of a landowner in such developmental arrangements stands authoritatively settled by the Hon'ble Supreme Court of India in ***Sriganesh Chandrasekaran & Ors. v. M/s Unishire Homes LLP & Ors.*** (Civil Appeal Nos. 10527–10528 of 2024). The Hon'ble Apex Court held that where a Joint Development Agreement and General Power of Attorney clearly demarcate obligations confining the landowner's role strictly to making land available while casting the sole responsibility for construction, marketing, and delivery upon the developer, reinforced by an indemnity clause in favor of the owner, the landowner cannot be held jointly and severally liable for delay in construction or deficiency in service. In the present case, there is neither any privity of financial transaction between the complainant and respondent no. 2 nor any allegation or proof that respondent no. 2 committed any independent act of default or received any portion of the sale consideration. Applying the ratio of ***Sriganesh Chandrasekaran*** (supra) to the uncontroverted contractual framework, no financial or developmental liability can be fastened upon Respondent No. 2. Consequently, the complaint qua Respondent No. 2 is dismissed, and Respondent No. 2 is exonerated from the payment of delay interest, compensation, or any other monetary liability arising under this order.

K. DIRECTIONS OF AUTHORITY

52. Hence, the Authority hereby passes this order and issues following directions under Section 37 of the Act to ensure compliance of obligation cast upon the promoter as per the function entrusted to the Authority under Section 34(f) of the Act of 2016:

i. Respondent is directed to pay the complainant upfront amount as provided in table in para 45 of this order. Further, respondent's liability for paying monthly interest of as shown in above table will commence w.e.f. 04.11.2026 and it shall be paid on monthly basis till legally valid offer of possession is made to complainant.

ii. A period of 90 days is given to the respondent to comply with the directions given in this order as provided in Rule 16 of Haryana Real Estate (Regulation & Development) Rules, 2017 failing which legal consequences would follow.

iii. Respondent shall offer possession of the unit to complainants within 30 days and the complainant shall also accept the same within next 30 days.

iv. The respondents shall not charge anything from the complainant which is not a part of builder buyer agreement and complainant shall remain liable to make payment due at the time of offer of possession.

Disposed of. Files to be consigned to record room after uploading of order on website.

.....

DR. GEETA RATHEE SINGH
[MEMBER]

Haryana Real Estate Regulatory Authority
सत्यमेव जयते
Panchkula